

R E M A R K S

Favorable reconsideration is respectfully requested in view of the preceding amendments and the following comments. Claim 22 has been canceled, with the reservation of preserving the right to reassert that claim in a continuing application.

Applicants have noted with appreciation the withdrawal of the number of grounds of rejection, which simplifies and facilitates the further prosecution of this application.

Applicants also express their appreciation for the Examiner's suggestion of suitable language for claim 1, which language has been appropriately incorporated into the text of that claim.

The rejection of claims 1 to 21 "under 35 U.S.C. 112, second paragraph," is respectfully traversed insofar as this ground of rejection has not been completely overcome by incorporating the substitute terminology so kindly suggested by the Examiner.

The rejection of claims 1 to 4, 14, 18 and 19 "under 35 U.S.C. 102(b) as being anticipated by Yamamoto *et al.* (US Patent No. 5,891,538)" is also respectfully traversed. Issue is respectfully taken with the criterion ["the claimed aspect of the ratio in melt viscosity between the two layers being between 1:40 or below therefore reads on Yamamoto *et al.*"] relied upon for precluding patentability. Reference in this regard is respectfully made to the opinion for *In re Benno*, 226 U.S.P.Q. 683 (Fed.Cir. 1985):

The contention that a claim configuration would be obvious from a reference claim on which it reads is a non-sequitur. According to such reasoning Morse's telegraph patent would have made the Telex obvious. The scope of a patent's claims determines what infringes the patents; it is no measure of what it discloses. A patent discloses only that which it describes, whether specifically or in general terms, so as to convey intelligence to one capable of understanding.

Applicants respectfully submit that the rationale of this holding is equally applicable to text of references similarly relied upon.

In Yamamoto a fuel hose comprises an inner layer and an outer layer on both sides of a thermoplastic resin composition layer, and the melt viscosity of the materials of the inner and outer layers is within a range of from 10 - 100,000 poise, respectively. These melt viscosity values however, reflect minimum and maximum values within a very wide range. In addition, Yamamoto does not

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disclose, or even remotely suggest that both materials of the layers are in such a relation with each other that the melt viscosity of both have a specific ratio of 1:40 or below.

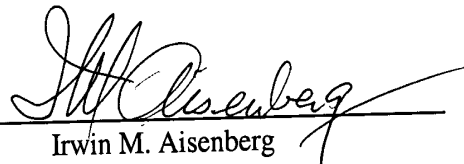
The present invention is characterized by a ratio of 1:40 in melt viscosity of the inner and outer layers, not in the values of the melt viscosity itself. Yamamoto, however, fails to disclose, or suggest such a ratio as 1:40, nor disclose a concept about ratio in melt viscosity. Consequently, Yamamoto does not in any way even render obvious the subject matter expressly called for by Applicants' claims.

Having overcome all outstanding grounds of rejection, this application is condition for allowance, and early action toward that end is respectfully solicited.

Respectfully submitted,

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